IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY NINETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT APPEAL NO : 1472 of 1999

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated in NO : OF on the file of the High Court.)

Between:

1. Sangu Lakshminarayana s/o Polisetti, aged 76 years,
r/o Huzurnagar, Nalgonda District (**died** per L.Rs/appellants 3 to 10 herein)

2. Sangu Brahmam s/o Lakshminarayana, age 50 years, cultivation,
r/o Huzurnagar, Nalgonda Dist.

3. Sangu Janakamma w/o Late Laxminarayana, age 73 years r/o Huzurnagar, Nalgonda Dist.

4. Mamidi Govindamma w/o Jayaram, age 56 years r/o Huzurnagar, Nalgonda Dist.

5. Putta Saraswathi w/o Nageshwar Rao, 48 years, r/o Jangaon, Warangal Dist.

6. Sangepu Jayalakshmi w/o Subbarao, 43 years, r/o Ketheveerampadu, Nandigama Mandal,
Krishna Dist.

7. Vaddepally Savithri w/o Prasad, 41 years, r/o Nagulavancha, Chintakeni Mandal, Khammam Dist.

8. Putta Eshwaramma w/o Nageswararao, 35 years, r/o Jangaon, Warangal Dist.

9. Sangu Sreenivasa Rao s/o Laxmi Narayana, 33 years, r/o Huzurnagar, Nalgonda Dist.

10. Sangu Nagamalleswar Rao s/o Late Lakshminarayana, 30 years, r/o Huzurnagar, Nalgonda Dist.

(Appellant No.2 already on record. Appellants 3 to 10 are brought on record as L.Rs. of the

deceased/1st appellant as per Court Orders in W.A.M.P.No.100/02 dated 21-02-2002)

..... APPELLANTS

AND

1. The Commissioner of Survey, Setlements and Land Records,
A.P. Hyderabad.

2. The Director of Settlements, A.P. Hyderabad.

3. The Settlement Officer, (Joint Collector), Nalgonda.

4. Dasaraju Narayana s/o Munnaiah, 40 years, r/o Kasavarigudem,
Garidepalli mandal, Nalgonda Dist.

5. Dasaraju Mangaiah S/o Ramaiah, aged 65 years, R/o Kasasvarigudem

Garidepalli Mandal, Nalgonda District.

6.Dasaraju Lakshmaiah s/o Ramaiah, 63 years, r/o Kasavarigudem,
Garidepalli mandal, Nalgonda Dist.

7. Dasaraju Pitchaiah s/o Ramaiah, 60 years, r/o Kasavarigudem,
Garidepalli mandal, Nalgonda Dist.

.....RESPONDENTS

Counsel for the Appellants: MR.T.S.ANAND

Counsel for the Respondents: GP FOR REVENUE & Mr.A Rangacharyulu,Advocate

The Court made the following :

The Hon'ble Sri Justice B. Sudershan Reddy

a n d

The Hon'ble Sri Justice K.C. Bhanu

W.A. No. 1472 OF 1999

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O R D E R: (per Sri Justice K.C. Bhanu)

The appellants herein filed the writ petition questioning the order passed by the Commissioner of Survey, Settlement and Land Records, Andhra Pradesh, Hyderabad dated 8.6.1998 wherein the Commissioner has dismissed the revision petition before him and remanded the matter for enquiry into the claim of the respondents therein. The learned single Judge dismissed the said writ petition holding that the material available on record was not sufficient for the Commissioner to give a conclusive finding and as such the Commissioner rightly remanded the matter for enquiry on a particular aspect and that there is no reason for this court to interfere with the order passed by the learned Comissioner in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India. Questioning the same, a writ appeal has been filed before this court wherein a Division Bench of this court directed the Settlement Officer to consider the claims of both the appellants as well as the respondents. The 4th respondent herein preferred a Civil Appeal before the Supreme Court in Civil Appeal No. 9563 of 2003 wherein the Supreme Court held as follows:

> "By the impugned judgment, without going into the merits of the appeal, the Division Bench has merely directed that the Settlement Officer (to whom the matters have been remitted back) must consider the claims of both the appellants as well as the respondents. However, we find that the lower authorities, starting with the Director of Settlement have already rejected the claims of the respondents. It has also been held that the case falls under Section 17(1)(a). The single Judge also upheld these findings. Therefore, unless the appellate Court first comes to a conclusion on merits that these findings were not correct it can not direct the case of the respondents to be considered by the Settlement Officer.
>
> We, therefore, set aside the impugned order and remit the matter back to the High Court. The High Court is requested to dispose of

Writ Appeal No. 1472 of 1999 on merits as expeditiously as possible.

The Civil Appeal stands disposed of accordingly. There will be no order as to costs".

This is how the matter has been placed before this court for disposal.

The brief facts that are necessary for the disposal of the present appeal may be delineated as follows:

The village Kalavapally is situated in Lingagiri Zamin Estate which was notified and taken over by the Government on 7.9.1949. In a suo moto enquiry the Settlement Officer, Eluru granted ryotwari patta u/Sec. 11 of the Estate Abolition Act in respect of some land in certain survey numbers to the petitioners. The petitioners claim to be in continuous possession and enjoyment of the lands in their own right in respect of which a patta was granted by the Settlement Officer, Eluru. After lapse of 14 years, the respondents 4 to 7 filed a revision petition before the Director of Settlement u/s. 5 (2) of the Estates Abolition Act contending that they are entitled to the patta in respect of the aforesaid lands and that the order passed by the Assistant Settlement Officer, Eluru was without notice to them. The Director of Settlements, Hyderabad by his order dated 16.6.1995 set aside the order of the Assistant Settlement Officer, Eluru dated 23.3.1967 and granted ryotwari patta to the revision petitioners before him u/s. 17(1)(a) of the Estates Abolition Act. Assailing the same, the appellants-petitioners filed a revision petition before the Commissioner of Survey, Settlement and Land Records, Andhra Pradesh u/Sec. 7(d) of the Estates Abolition Act. The Commissioner dismissed the revision petition holding that the petitioners in the writ petition are not entitled for patta as the case falls u/s. 17(1)(a) of the Estates Abolition Act. But insofar as granting of patta in favour of the respondents herein was concerned, the matter was remanded to the Settlement Officer for fresh disposal. Pursuant to the said order, the

Joint Collector, Nalgonda issued notice dated 14.11.1998 directing the appellants-petitioners to appear before him on 30.11.1998 to attend the case. Thereafter, questioning the order of the Commissioner of Survey and Land Records dated 8.6.1998, the writ petition is filed on the ground that the order is vitiated by the errors apparent on the face of the record and that the Commissioner failed to appreciate correctly the documents filed before him which establish the rights of the petitioners for ryotwari patta.

The learned counsel appearing for the appellants-petitioners contended that the appellants herein have been in continuous possession and enjoyment of the lands in question. Having remanded the matter to consider the eligibility of the respondents to grant patta u/s. 17(1)(a) of the Estates Abolition Act, the Commissioner ought not to have given any adverse findings against the appellants-petitioners who have prima facie established that they are in possession and enjoyment of the lands in question and instead, the Commissioner ought to have remanded the matter to adjudicate the rights of both the parties giving the petitioners also an opportunity to establish their case before the Settlement Officer.

On the other hand, the learned counsel for the respondents contended that the land in question is a Chakali Manyam inam land burdened with service granted in favour of the respondents ancestors by the Zamindar of Lingagiri for personal service to the Zamindar and the Zamin estate was taken over by the Government on 7.9.1949 and the petitioners failed to prove their title and possession as on the date of notification. As the petitioners failed to establish their case before the Commissioner, rightly the Commissioner rejected the claim of the petitioners and therefore there is no erroneous finding so as to call for interference or that the findings are not based upon any evidence.

It is well settled law and needs no reiteration that in the decision making process if the authority deciding the case has

ignored vital evidence and thereby arrived at an erroneous conclusion or has misconstrued the provisions of the relevant Act or misunderstood the scope of its jurisdiction, the constitutional power under Article 226 of the Constitution can be invoked to set aside such erroneous findings so as to prevent gross injustice to the party complaining. To a limited extent of scrutinising the decision making process, it is always open to the court to review the evaluation of the facts by the decision maker.

Now it has to be seen whether the Director of Settlement and Survey has given any incorrect or improper finding or that the findings are not based upon the material evidence on record?

The appellants-petitioners claim their right for issue of ryotwari patta u/Sec. 17(1)(b) read with Section 11 of the A.P. (A.A) Estates (Abolition & Conversion) Act, 1948 (for short, 'the Act'). Section 17(1)(b) reads:

> "17(1). Where any land (not consisting of an entire village) granted on service tenure, whether to an individual or institution falls under Section 3, clause 16(c) of Estates Land Act, then..
>
> (b) in all other cases, the holder of such land shall have the same right in the land, and be subject to the same liabilities, as the inamdar of a minor service inam in a ryotwari village has in respect of his land".

Section 11 of the said Act reads as follows:

> "11. Lands in which ryot is entitled to ryotwari patta:---
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> Every ryot in an estate shall, with effect on and from the notified date, be entitled to a ryotwari patta in respect of—
>
> a. all ryoti lands which, immediately before the notified date were properly included or ought

to have been properly included in his holding and which are not either lanka lands or lands in respect of which a landholder or some other person is entitled to a ryotwari patta under any other provision of this Act; and

b. all lanka lands in his occupation immediately before the notified date, such lands having been in his occupation or in that of his predecessors-in-title continuously from the 1st day of July, 1939:

Provided that no person who has been admitted into possession of any land by a landholder on or after the first day of July, 1945 shall, except where the Government, after an examination of all the circumstances otherwise direct, be entitled to a ryotwari patta in respect of such land".

The above provision makes it clear that in respect of ryoti lands, every ryot is entitled for ryotwari patta with effect on and from the notified date. But no person who has admitted into possession of any land by a landholder on or after first day of July, 1945 shall, except where the Government after examination of all the circumstances otherwise direct, be entitled to a ryotwari patta. According to the petitioners-appellants, they are entitled for the patta u/s. 17(1)(b) of the Act. In our considered opinion, Section 17(1)(b) of the Act has no application at all to the appellants' case because even according to the appellants, their predecessor-in-title purchased the

said land from Dasaraju Ramaiah and Kanakaiah.

To support the case of the appellants, they have filed the following documents:

1. Orders in A.S.Nos. 21, 22 and 23 of 1988 dated 21.6.1991 of the District Judge, Nalgonda.

2. Land Revenue Receipts (3 in number)

3. Pahani Patrika for 1958-59 and 1959-60.

The finding of the Commissioner of Survey and Settlement, Hyderabad is that the suits filed by the appellants-petitioners are for perpetual injunction and not title suits and the suit lands are inam lands and therefore they are inalienable. Therefore, the learned Commissioner rightly held that decreeing of suits filed by the petitioners did not confer any title to the petitioners. With regard to the three land revenue receipts relating to (i) 1995-96, 1996-97, (ii) Faslis 1401 to 1403 and (iii) Fasli 1404, the Commissioner held that they are not crucial to determine the eligibility for patta.

The above findings of the Commissioner cannot be said to be incorrect because the appellants-petitioners claim to have admitted into possession on or after 1st July, 1945 and as such it is only the Government which is entitled to issue a ryotwari patta after the examination of all the circumstances.

Insofar as the pahani patrikas for 1958-59 and 1959-60, these documents show the lands described as 'Chouthai Inam' under joint inamdars' possession and the appellants-petitioners are not claiming to be the inamdars and, therefore, those documents do not help their case. Basing on the documents filed by the appellants-petitioners, the Director of Settlements has given a correct finding and basing on the material available on record, the Commissioner of Survey, Settlements and Land Records has passed the order holding

that the appellants-petitioners have no title or interest in the subject lands and accordingly remanded the matter for consideration of the fact as to whether the respondents herein are entitled for ryotwari pata. Nothing has been pointed out as to how the order passed by the Commissioner of Survey, Settlements and Land Records is not based upon the consideration of evidence. Therefore, it is not a case where the authority deciding the case has ignored vital evidence and thereby arrived at an erroneous conclusion. So also, it is not a case of misconstruing the relevant provisions of the Act. The impugned order does not suffer from any illegality, irrationality or procedural impropriety. The reasoning given in the impugned order in arriving at the findings cannot be said to be perverse. The findings are based upon the documents filed by the appellants-petitioners. The documents filed by the appellants-petitioners pertain to the period after the Settlement Officer passed his orders. As the suit lands are said to Chakali Inam lands, the question of patta u/Sec. 17(1)(b) of the Act does not arise.

The learned counsel for the appellants contended that the delay is not properly explained by the respondents in filing the revision petition before the Director of Settlement. In support of his contention, he relied upon a decision of the Supreme Court in State of *Gujarat v. P. Raghav*, wherein it is held:

> "The question arises whether the Commissioner can revise an order made under Section 65 at any time. It is true that there is no period of limitation prescribed under Section 211, but it seems to us plain that this power must be exercised in reasonable time and the length of the reasonable time must be determined by the facts of the case and the nature of the order which is being revised".

This point has been raised for the first time in this appeal. As the Assistant Settlement Officer passed the order dated 28.3.1967 basing on the statements of two witnesses examined and without

considering all the documents and without notice to the respondents herein, respondents might not have knowledge over the same and therefore, coming to know about granting of pattas to the appellants-petitioners u/Sec. 17(1)(b), they have filed a revision petition before the Director of Settlement, Hyderabad. Therefore, in those circumstances it cannot be said that the delay is not reasonably explained.

Therefore, after elaborate consideration of the matter the Commissioner of Survey, Settlement and Land Records passed the order dated 8.6.1998 and after elaborate consideration of the material available on record the learned single Judge rightly dismissed the writ petition holding that it is not a case where interference by this court in exercise of its extraordinary powers under Article 226 of the Constitution is needed. The order under appeal does not suffer from any legal infirmities.

There are absolutely no grounds to interfere with the order dated 25.8.1999 of the learned single Judge. The writ appeal is dismissed. In the circumstances, no costs.

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B. Sudershan Reddy, J.

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K.C. Bhanu, J.

Date: --07—2004.

MVB.

.....REGISTRAR

To

1. The Commissioner of Survey, Setlements and Land Records,
A.P. Hyderabad.

2. The Director of Settlements, A.P. Hyderabad.

3. The Settlement Officer, (Joint Collector), Nalgonda.

4. 2 C.Cs. to G.P. for Revenue, High Court of A.P., Hyderabad

5. 2 CD copies